

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 04 May 2006

CASE NO.: 2006-SOX-27

In the Matter of

PAMELA STEVENS,
Complainant

v.

INTERPUBLIC GROUP OF COMPANIES
dba NAS RECRUITMENT COMMUNICATIONS,
Respondent

ORDER GRANTING WITHDRAWAL OF OBJECTIONS AND HEARING REQUEST

The above-captioned case arises under the employee protection, or “whistleblower,” provision of Section 806 of the Corporate and Criminal Fraud and Accountability Act of 2002, Title VII of the Sarbanes-Oxley Act, 18 U.S.C. § 1514A (“Sarbanes-Oxley” or “Act”), as implemented by 29 C.F.R. Part 1980. This statutory provision prohibits companies with a class of securities registered under section 12 and those required to file reports under section 15(d) of the Securities Exchange Act of 1934 from discharging or otherwise discriminating against any employee with respect to the terms and conditions of employment because of any lawful act done by that employee to provide information to the company or Federal Government regarding any conduct the employee reasonably believes constitutes a violation of 18 U.S.C. §§ 1341 (mail fraud and swindle), 1343 (fraud by wire, radio, or television), 1344 (bank fraud), 1348 (security fraud), any rule or regulation of the Securities and Exchange Commission, or any provision of federal law related to fraud against shareholders.

On April 22, 2005, Complainant Pamela Stevens filed a complaint with the Assistant Secretary, United States Department of Labor alleging that her former employer, Respondent Interpublic Group of Companies, Inc., d/b/a NAS Recruitment Communications violated the Act. On October 13, 2005, following an investigation, the Assistant Secretary found no reasonable cause to believe that the Respondent had violated the Act. On November 21, 2005, the Complainant objected to the Assistant Secretary’s findings and requested a hearing before an Administrative Law Judge. The matter is scheduled for a hearing to commence on July 25, 2006 in Chicago, Illinois.

On May 3, 2006, the Complainant submitted a request to withdraw her complaint and objections to the Assistant Secretary’s findings and request for a hearing. Complainant averred that she is no longer represented by counsel and is unable to continue with her claim. On May 3, 2006, the Respondent informed this Court that it has no objection to this request.

Pursuant to 29 C.F.R. §§ 1980.104-05, upon the filing of a complaint, the Assistant Secretary shall conduct an investigation and issue written findings as to whether a violation of the Act occurred. Any party who desires judicial review of these findings must file objections to the findings and a request for a hearing before an administrative law judge. 20 C.F.R. § 1980.106(a).¹ A party may withdraw her objections to the findings by written request with the Administrative Law Judge. 29 C.F.R. § 1980.111(c). The administrative law judge must then determine whether to approve the withdrawal.²

In *Stavrulakis v. Forrest City Enterprises, Inc.*, 2005-SOX-5 (ALJ Jan. 27, 2005), the Administrative Law Judge aptly explained the effects of withdrawal under § 1980.111(c), stating that such a request “effectively removes [the complainant’s] objection and request for an administrative law judges hearing.” *Stavrulakis*, 2005-SOX-5 at 3. Consequently, in the absence of such an objection and request for a hearing, and because thirty days since receipt of the findings has passed, the findings of the Assistant Secretary become final. *Id.*

In this case, I approve the Complainant’s request to withdraw her objections to the Assistant Secretary’s findings. Her written request indicates that she chose this course of action knowingly and voluntarily and there is nothing to indicate that withdrawal in this case would undermine the policies underlying Sarbanes-Oxley.³ Therefore, withdrawal in this case is appropriate. As a result, the Complainant’s objections and hearing request are eradicated and, because of the passage of thirty days since receipt of the Assistant Secretary’s findings, those findings become final and are no longer subject to judicial review.

ORDER

IT IS HEREBY ORDERED that Complainant’s request to withdraw her objections to the Assistant Secretary’s findings and request for a hearing is GRANTED. The hearing scheduled for July 25, 2006 is CANCELLED.

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RICHARD A. MORGAN
Administrative Law Judge

¹ If no such objections are filed within thirty days of receipt, the findings become final. 20 C.F.R. § 1980.105(c); 20 C.F.R. § 1980.106(b)(2).

² In *Harnois v. American Eagle Airlines*, 2002-AIR-17 (ALJ Sept. 9, 2002), the Administrative Law Judge stated that, in the absence of statutory guidance, the Court must be satisfied that the withdrawal is made knowingly and voluntarily and that withdrawal under the circumstances is not inconsistent with the policies underling the Act. *Harnois*, 2002-AIR-17 at 2.

³ While Complainant’s loss of counsel is unfortunate, I observe that she had the benefit of counsel for much of the litigation of this case.